

SENATE BILL NO. 134

INTRODUCED BY D. LEWIS

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTIFICATION OF COMPLIANCE FROM INSURERS THAT AN ASSOCIATION OR TRUST IS ELIGIBLE TO BE A GROUP HEALTH INSURANCE POLICYHOLDER; APPLYING ASSOCIATION AND TRUST CERTIFICATION REQUIREMENTS AND CERTAIN GROUP DISABILITY INSURANCE TERMS TO HEALTH MAINTENANCE ORGANIZATIONS; AMENDING SECTION 33-31-111, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Eligibility of association or trust to be group health policyholder -- certification. (1) An insurer may not offer health insurance coverage to Montana residents under a policy of group health insurance issued to an association or a trust as the policyholder, whether issued in this state or in another state, unless the commissioner determines that the association or trust satisfies the requirements of 33-22-501 and, if applicable, the definition of a bona fide association in 33-22-1803 and in administrative rules.

(2) An insurer shall submit information on a form designated by the commissioner demonstrating that the association or trust satisfies the requirements of subsection (1). The association or trust shall also sign the form, certifying that the information provided is true and correct and stating that it will notify the insurer and any subsequent insurer if there is a material change in the information provided.

(3) The commissioner shall:

(a) review the forms and may request additional information as needed; and

(b) issue a numbered certificate of compliance to the insurer and the association or trust if the association or trust meets the necessary legal requirements.

(4) If the association changes its insurer, the subsequent insurer may rely on the same certification issued under subsection (3).

(5) An insurer shall notify the commissioner if the association advises the insurer that the facts supporting the issuance of the certificate have materially changed.

(6) The commissioner may order an insurer to cease offering health insurance to an association or trust

1 if the commissioner determines that the requirements of this section have not been met.

2 (7) For the purposes of this section, "health insurance coverage" has the meaning provided in 33-22-140
3 and does not include long-term care insurance or disability income insurance.

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5 **Section 2.** Section 33-31-111, MCA, is amended to read:

6 **"33-31-111. (Temporary) Statutory construction and relationship to other laws.** (1) Except as
7 otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health
8 maintenance organization authorized to transact business under this chapter. This provision does not apply to
9 an insurer or health service corporation licensed and regulated pursuant to the insurance or health service
10 corporation laws of this state except with respect to its health maintenance organization activities authorized and
11 regulated pursuant to this chapter.

12 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its
13 representatives is not a violation of any law relating to solicitation or advertising by health professionals.

14 (3) A health maintenance organization authorized under this chapter is not practicing medicine and is
15 exempt from Title 37, chapter 3, relating to the practice of medicine.

16 (4) This chapter does not exempt a health maintenance organization from the applicable certificate of
17 need requirements under Title 50, chapter 5, parts 1 and 3.

18 (5) This section does not exempt a health maintenance organization from the prohibition of pecuniary
19 interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704.
20 A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701
21 through 33-3-704.

22 (6) This section does not exempt a health maintenance organization from:

23 (a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

24 (b) the provisions of Title 33, chapter 22, part 19;

25 (c) the requirements of 33-22-134 and 33-22-135;

26 (d) network adequacy and quality assurance requirements provided under chapter 36, except as
27 provided in 33-22-262; or

28 (e) the requirements of Title 33, chapter 18, part 9.

29 (7) Except as provided in 33-22-262, the provisions of Title 33, chapter 1, parts 12 and 13, Title 33,
30 chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title

33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-141, 33-22-142, 33-22-152, 33-22-244, 33-22-246, 33-22-247, 33-22-501, 33-22-514, 33-22-521, 33-22-523, 33-22-524, 33-22-526, [section 1], and 33-22-706 apply to health maintenance organizations. (Terminates June 30, 2009--sec. 14, Ch. 325, L. 2003.)

33-31-111. (Effective July 1, 2009) Statutory construction and relationship to other laws. (1) Except as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance organization authorized to transact business under this chapter. This provision does not apply to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

(3) A health maintenance organization authorized under this chapter is not practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

(4) This chapter does not exempt a health maintenance organization from the applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

(5) This section does not exempt a health maintenance organization from the prohibition of pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701 through 33-3-704.

(6) This section does not exempt a health maintenance organization from:

(a) prohibitions against interference with certain communications as provided under chapter 1, part 8;

(b) the provisions of Title 33, chapter 22, part 19;

(c) the requirements of 33-22-134 and 33-22-135;

(d) network adequacy and quality assurance requirements provided under chapter 36; or

(e) the requirements of Title 33, chapter 18, part 9.

(7) Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-141, 33-22-142, 33-22-152, 33-22-244, 33-22-246, 33-22-247, 33-22-501, 33-22-514, 33-22-521, 33-22-523, 33-22-524, 33-22-526, [section 1], and 33-22-706 apply to health maintenance organizations."

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2 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an

3 integral part of Title 33, chapter 22, part 5, and the provisions of Title 33, chapter 22, part 5, apply to [section 1].

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5 NEW SECTION. **Section 4. Effective date.** [This act] is effective January 1, 2010.

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